



Freedom of Information Act (FOIA) Fiscal Year (FY) 2016 Chief FOIA Officer report

Millennium Challenge Corporation (MCC): Tamiko N. Walker, Chief FOIA Officer

Section I: Steps Taken to Apply the Presumption of Openness

The guiding principle underlying the President's FOIA Memorandum and the Attorney General's FOIA Guidelines is the presumption of openness. Describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA. You may also include any additional information that illustrates how your agency is working to apply the presumption of openness.

FOIA Training:

Did your FOIA professionals or the personnel at your agency who have FOIA responsibilities attend any FOIA training or conference during the reporting period such as that provided by the Department of Justice?

Answer: All members of MCC's FOIA office have been trained on the President's FOIA memorandum and the Attorney General's FOIA Guidelines in order to ensure a presumption of openness. No specific conferences related to FOIA were attended by the FOIA professionals during the reporting period.

Provide an estimate of the percentage of your FOIA professionals and staff with FOIA responsibilities who attended substantive FOIA training during this reporting period.

Answer: Zero percent. Due to the small number of FOIA requests received by MCC, the agency has a small FOIA Office comprised of 2 people. During the reporting year, the FOIA Office underwent significant transition, the former Chief FOIA Officer retired from federal service in December 2014, the new Chief FOIA Officer was hired 90 days prior to the end of FY15, and the Program Officer resigned at the end of FY15. The Program Officer position is currently vacant; and the new Chief FOIA Officer has not attended substantive FOIA training specifically on behalf of MCC during this reporting period.

OIP has directed agencies to "take steps to ensure that all of their FOIA professionals attended substantive FOIA training at least once throughout the year." If your response to the previous question is that less than 80% of your FOIA professionals attended training, please explain your

agency's plan to ensure that all FOIA professionals receive or attend substantive FOIA training during the next reporting year.

Answer: The new Chief FOIA Officer has registered and will attend the DOJ/OIP Advanced FOIA Seminar on May 10, 2016. The Program Officer will attend DOJ/OIP Introduction to the FOIA course on April 26, 2016; and The FOIA for Attorneys and Access Professionals course on July 12-13. In addition, the Chief FOIA Officer will consider any additional training opportunities through other sources in the form of CLEs, seminars, or conferences held by other organizations.

Discretionary Releases:

Does your agency have a distinct process or system in place to review records for discretionary release?

Answer: MCC receives a low number of requests each year and is able to analyze each requested document for potential discretionary releases when FOIA exemptions may be applied. In addition, MCC pursues a policy of proactive disclosure to ensure information is generally accessible to the public without the need to submit a FOIA request. Not only are all of our compacts and threshold programs listed on our public website, but we include the core program documentation and the results of those programs as they progress.

During the reporting period, did your agency make any discretionary releases of information?

Answer: MCC has not made any discretionary releases of otherwise exempt information this year. However, see the answer to #4 above.

What exemption(s) would have covered the material released as a matter of discretion?

Answer: N/A

Provide a narrative description, as well as some specific examples, of the types of information that your agency released as a matter of discretion during the reporting year.

Answer: MCC has not made any discretionary releases of otherwise exempt information.

If your agency was not able to make any discretionary releases of information, please explain why.

Answer: Most of MCC's denials involve situations where no records exist or involves proprietary or private personal information. MCC has released all information it possibly can in accordance with the FOIA and the policy of openness.

Other Initiatives:

If there are any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied, please describe them here.

Answer: MCC proactively publishes a wealth of data and information to allow the public to understand not only how we invest taxpayer dollars, but also how we make decisions as an agency. On a quarterly basis—and in open, accessible and machine-readable

formats—MCC posts complete financial and program performance information. MCC’s monitoring and evaluation data, independent evaluations, economic analysis and country selection information is available on our website. We also publish all procurement information to the public. As we review all the data and information produced at MCC, we continually identify new sources that could be made available to the public and add to the content available.

MCC is also a participant in the Open Government FOIA pilot program and participates in interagency meetings on a monthly basis.

Section II: Steps Taken to Ensure that Your Agency Has an Effective System in Place for Responding to Requests

As the Attorney General emphasized in his FOIA Guidelines, “[a]pplication of the proper disclosure standard is only one part of ensuring transparency. Open government requires not just a presumption of disclosure, but also an effective system for responding to FOIA requests.” It is essential that agencies effectively manage their FOIA program.

Describe the steps your agency has taken to ensure that your management of your FOIA program is effective and efficient. You should also include any additional information that describes your agency's efforts in this area.

For Fiscal Year 2015, what was the average number of days your agency reported for adjudicating requests for expedited processing? Please see Section VIII.A. of your agency's Fiscal Year 2015 Annual FOIA Report.

Answer: Our agency did not adjudicate any requests for expedited processing during Fiscal Year 2015.

If your agency's average number of days to adjudicate requests for expedited processing was above ten calendar days, please describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.

Answer: N/A

Requester Services:

On July 2, 2015, OIP issued new guidance to agencies on the proper procedures to be used in the event an agency has a reason to inquire whether a requester is still interested in the processing of his or her request. Please confirm here that to the extent your agency may have had occasion to send a “still interested” inquiry, it has done so in accordance with the new guidelines for doing so, including affording requesters thirty working days to respond?

Answer: N/A, MCC has not had the occasion to send a “still interested” inquiry to any requesters. This has not been necessary for the types of requests processed by the agency during this year.

Agency FOIA Requester Service Centers and FOIA Public Liaisons serve as the face and voice of any agency. In this capacity they provide a very important service for requesters, informing them about how the FOIA process works and providing specific details on the handling of their individual requests. The FOIA also calls on agency FOIA Requester Service Centers and FOIA Public Liaisons to assist requesters in resolving disputes. Please explain here any steps your agency has taken to strengthen these services to better inform requesters and to prevent or resolve FOIA disputes.

Answer: The Chief FOIA Officer and Program Officer consistently communicate with requesters to answer questions and to clarify the nature of their requests. MCC did not receive any appeals during this reporting year and any disputes were resolved by proactively communicating with the requester to ensure that the requester understood how the request would be processed and a detailed explanation was given to the requester to help them understand the agency’s response and release of applicable documents.

Other Initiatives:

If there are any other steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively, such as conducting self-assessments to find greater efficiencies, improving search processes, eliminating redundancy, etc., please describe them here.

Answer: In 2015, MCC conducted an internal review to determine how well our FOIA processes are operating and to identify steps that could be taken to improve efficiency. Based on this review, MCC has identified a few areas which are being corrected to improve the overall efficiency of the program, this includes improving search processes through direct coordination with the Office of the Chief Information Officer (IT) and other relevant departments; developing a fee tracking system to ensure that requesters are charged fees where appropriate; and developing a more efficient review and data tracking process to ensure that data is accurate and up to date.

Section III: Steps Taken to Increase Proactive Disclosures

Both the President and Attorney General focused on the need for agencies to work proactively to post information online without waiting for individual requests to be received.

Describe the steps your agency has taken to increase the amount of material that is available on your agency websites. In addition to the questions below, you should also describe any additional steps taken by your agency to make and improve proactive disclosures of information.

Posting Material:

Does your agency's process or system for identifying "frequently requested" records required to be posted online under Subsection (a)(2) of the FOIA. For example, does your agency monitor its FOIA logs or is there some other system in place to identify these records for posting.

Answer: MCC processes very few requests each year which vary significantly with respect to the information that the requester is seeking. As a result, the requests cannot be categorically identified as "frequently requested" records. MCC does review its FOIA logs to determine where there has been a similar request for records.

Does your agency has a distinct process or system in place to identify other records for proactive disclosure? If so, please describe your agency's process or system.

Answer: Yes, MCC's Policy on Access to Information and Materials provides internal guidance to MCC staff on how to proactively disclose information. The policy outlines procedures for staff to follow when requesting the release of materials covered by the policy. The Office of General Counsel representative providing clearance as described in the policy is responsible for considering whether the release has potential FOIA implications.

However, in keeping with the May 9, 2013 Executive Order on Open Data and MCC's effort to operate as transparently as possible, MCC posts complete financial and program performance information, monitoring and evaluation data, independent evaluations, economic analysis and country selection information, and procurement information on its website. MCC, in collaboration with its FOIA Office, Office of the Chief Information Officer, Office of Public Affairs, Office of the General Counsel, and other relevant departments works to continuously identify new sources that could be made available to the public and add to the content available on its website.

When making proactive disclosures of records, are your agency's FOIA professionals involved in coding the records for Section 508 compliance or otherwise preparing them for posting? If so, provide an estimate of how much time is involved for each of your FOIA professionals and your agency overall.

Answer: In an effort to make its program more efficient, MCC is in the process of securing a contract for services to ensure that its disclosures are Section 508 compliant. MCC anticipates this issue will be resolved in the next reporting year. MCC FOIA professionals are not specifically involved with coding records for 508 compliance, this is a collaborative effort between the various departments within the agency.

In addition, MCC as an agency strives to operate as transparently as possible. MCC's Open Data Catalog (<http://data.mcc.gov/>) provides public access to high-value data generated, collected and held by MCC. On a quarterly basis—and in open, accessible and machine-readable formats—MCC posts complete financial and program performance information; MCC's monitoring and evaluation data, independent evaluations, economic analysis and country selection information is also available at <http://www.mcc.gov/pages/results>.

Has your agency encountered challenges that make it difficult to post records you otherwise would like to post?

Answer: No, however MCC is working to ensure that all of its records that are posted as Section 508 compliant and accessible to the public in machine-readable formats.

If so, please explain briefly those challenges.

Answer: N/A

Provide examples of material that your agency has proactively disclosed during the past reporting year, including links to the posted material.

Answer: MCC's Open Data Catalog (<http://data.mcc.gov/>) provides public access to high-value data generated, collected and held by MCC.

The public may also review information related to planned procurements and contract awards for MCC's Compact and Threshold programs on the following webpages: <http://www.mcc.gov/pages/business/compactprocurements> and <http://www.mcc.gov/pages/business/thresholdprocurements>, respectively. Financial and performance reports related to MCC's US business operations is available here: <http://www.mcc.gov/pages/about/reports>

Did your agency use any means to publicize or highlight important proactive disclosure for public awareness?

Answer: No

Other Initiatives:

If there are any other steps your agency has taken to increase proactive disclosure, please describe them here.

Answer: No

Section IV: Steps Taken to Greater Utilize Technology

Making Material Posted Online More Useful:

Beyond posting new material, is your agency taking steps to make the posted information more useful to the public, especially to the community of individuals who regularly access your agency's website?

Answer: Yes. MCC is committed to making its content and data on the website easy to discover, understand and use; and continuously assesses ways to improve the site's usability through improvements to navigation and content organization. MCC's reports are not only easier to find but also published as HTML to make for a better experience regardless of the type of device used.

MCC has a strong public engagement and information strategy which is carried out through monthly, quarterly and annual events with the general public and stakeholders. These events include digital strategies, such as social media chats and town hall meetings.

If yes, please provide examples of such improvements.

Answer: MCC implemented a new website in FY15 which effectively presents MCC's data and information through a more streamlined and user friendly approach. The new website design allows MCC to maximize opportunities for public participation and collaboration through improved web feedback features, offers multiple points of entry that make the agency's data more accessible, and offers an enhanced design coupled with a new web governance plan that allows the editorial process to include direct participation by various stakeholders from across the agency. The traffic to the new MCC website is also measured vigorously to assess metrics that not only includes how many time the site is visited, but how much time is spent on each page or product.

Other Initiatives:

Did your agency successfully post all four quarterly reports for Fiscal Year 2015?

Answer: Yes.

<http://www.mcc.gov/foia/quarterly/MCC-2015-Q1.zip>

<http://www.mcc.gov/foia/quarterly/MCC-2015-Q2.zip>

<http://www.mcc.gov/foia/quarterly/MCC-2015-Q3.zip>

<http://www.mcc.gov/foia/quarterly/MCC-2015-Q4.zip>

If your agency did not successfully post all quarterly reports, with information appearing on FOIA.gov, please explain why and provide your agency's plan for ensuring that such reporting is successful in Fiscal Year 2016.

Answer: N/A.

Do your agency's FOIA professionals use e-mail or other electronic means to communicate with requesters whenever feasible?

Answer: Yes, FOIA requests can be made via email to foia@mcc.gov. FOIA professionals also communicate with the requestors via e-mail to clarify and respond to requests.

If your agency does not communicate electronically with requesters as a default, are there any limitations or restrictions for the use of such means?

Answer: N/A

Section V: Steps Taken to Improve Timeliness in Responding to Requests and Reducing Backlogs

The President and the Attorney General have emphasized the importance of improving timeliness in

responding to requests. This section of your Chief FOIA Officer Report addresses both time limits and backlog reduction. Backlog reduction is measured both in terms of numbers of backlogged requests or appeals and by looking at whether agencies closed their ten oldest requests, appeals, and consultations. For the figures required in this Section, please use the numbers contained in the specified sections of your agency's 2014 Annual FOIA Report and, when applicable, your agency's 2013 Annual FOIA Report.

Simple Track:

Section VII.A of your agency's Annual FOIA Report, entitled "FOIA Requests – Response Time for All Processed Requests," includes figures that show your agency's average response times for processed requests. For agencies utilizing a multi-track system to process requests, there is a category for "simple" requests, which are those requests that are placed in the agency's fastest (non-expedited) track, based on the low volume and/or simplicity of the records requested.

Does your agency utilize a separate track for simple requests?

Answer: No.

If so, for your agency overall in Fiscal Year 2015, was the average number of days to process simple requests twenty working days or fewer?

Answer: N/A

Please provide the percentage of requests processed by your agency in Fiscal Year 2015 that were placed in your simple track.

Answer: N/A

If your agency does not track simple requests separately, was the average number of days to process all non-expedited requests twenty working days or fewer?

Answer: No

Backlogs:

Section XII.A of your agency's Annual FOIA Report, entitled "Backlogs of FOIA Requests and Administrative Appeals" shows the numbers of any backlogged requests or appeals from the fiscal year. You should refer to these numbers from your Annual FOIA Reports for both Fiscal Year 2014 and Fiscal Year 2015 when completing this section of your Chief FOIA Officer Report.

Backlogged Requests

If your agency had a backlog of requests at the close of Fiscal Year 2015, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2014?

Answer: Yes, the backlog decreased to from FY14 to FY15, there were no backlogs at the end of FY15.

If not, explain why and describe the causes that contributed to your agency not being able to reduce its backlog.

Answer: N/A

If you had a request backlog please report the percentage of requests that make up the backlog out of the total number of requests received by your agency in Fiscal Year 2015. If your agency did not receive any requests in Fiscal Year 2015 and/or has no request backlog, please answer with "N/A."

Answer: N/A

Backlogged Appeals

If your agency had a backlog of appeals at the close of Fiscal Year 2015, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2014?

Answer: MCC's appeal backlog remained at 0, since there was no appeal backlog in FY14 or FY15.

If not, explain why and describe the causes that contributed to your agency not being able to reduce backlog.

Answer: N/A

If you had an appeal backlog please report the percentage of appeals that make up the backlog out of the total number of appeals received by your agency in Fiscal Year 2015. If your agency did not receive any appeals in Fiscal Year 2015 and/or has no appeal backlog, please answer with "N/A."

Answer: N/A

Status of Ten Oldest Requests, Appeals, and Consultations:

Section VII.E, entitled "Pending Requests – Ten Oldest Pending Requests," Section VI.C.(5), entitled "Ten Oldest Pending Administrative Appeals," and Section XII.C., entitled "Consultations on FOIA Requests – Ten Oldest Consultations Received from Other Agencies and Pending at Your Agency," show the ten oldest pending requests, appeals, and consultations. You should refer to these numbers from your Annual FOIA Reports for both Fiscal Year 2014 and Fiscal Year 2015 when completing this section of your Chief FOIA Officer Report.

Ten Oldest Requests

In Fiscal Year 2015, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2014 Annual FOIA Report?

Answer: Yes.

If no, please provide the number of these requests your agency was able to close by the end of the fiscal year, as listed in Section VII.E of your Fiscal Year 2013 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.

Answer: N/A

Of the requests your agency was able to close from your ten oldest, please indicate how many of these were closed because the request was withdrawn by the requester. If any were closed because the request was withdrawn, did you provide any interim responses prior to the withdrawal?

Answer: 0

Ten Oldest Appeals

In Fiscal Year 2015, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2014 Annual FOIA Report?

Answer: MCC's appeal backlog remained at 0, since there was no appeal backlog in FY14 or FY15.

If no, please provide the number of these appeals your agency was able to close by the end of the fiscal year, as listed in Section VII.C.(5) of your Fiscal Year 2014 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

Answer: N/A

Ten Oldest Consultations

In Fiscal Year 2015, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2014 Annual FOIA Report?

Answer: MCC did not have any consultations reported pending in our Fiscal Year 2014 Annual FOIA Report.

If no, please provide the number of these consultations your agency was able to close by the end of the fiscal year, as listed in Section XII.C. of your Fiscal Year 2014 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

Answer: N/A

Additional Information on Ten Oldest Requests, Appeals, and Consultations & Plans:

Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2014.

Answer: MCC did not face any obstacles from closing its ten oldest requests, and MCC did not have any appeals or consultations from Fiscal Year 2014 to close.

If your agency was unable to close any of its ten oldest requests because you were waiting to hear back from other agencies on consultations you sent, please provide the date the request was initially received by your agency, the date when your agency sent the consultation, and the date when you last contacted the agency where the consultation was pending.

Answer: N/A

If your agency did not close its ten oldest pending requests, appeals, or consultations, please

provide a plan describing how your agency intends to close those “ten oldest” requests, appeals, and consultations during Fiscal Year 2016.

Answer: N/A

Use of the FOIA’s Law Enforcement Exclusions

Did your agency invoke a statutory exclusion, 5 U.S.C. § 552(c)(1), (2), (3), during Fiscal Year 2015?

Answer: No

If so, please provide the total number of times exclusions were invoked.

Answer: N/A